

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

VS.

CRIMINAL NO. 3:14-cr-111-HTW-FKB

CHRISTOPHER EPPS and
CECIL McCRORY

DEFENDANTS

ORDER

This cause is before the undersigned *sua sponte* for consideration of whether the indictment should remain sealed and, if so, for what period of time.

The grand jury returned this indictment on August 5, 2014. At the time, the undersigned sealed the indictment pursuant to Fed. R. Crim P. 6(e)(4).¹ As stated in the sealing order [2], sealing was appropriate because revealing the existence of the indictment would impede an ongoing covert criminal investigation.

Because of the length of time that has passed without arraignment or unsealing of the indictment, the undersigned has now examined the question of whether and to what extent the indictment should remain sealed. As one court has stated, “[e]ven if the Government has a legitimate prosecutorial purpose for sealing an indictment, the time period in which the indictment may remain sealed is not boundless.” *United States v. Gigante*, 439 F.Supp. 2d 647, 655 (S.D.N.Y. 2006).

¹Sealing of a criminal indictment is wholly within the discretion of a magistrate judge. *United States v. Sharpe*, 995 F.2d 49, 52 (5th Cir. 1993).

The undersigned has been advised that the covert criminal investigation remains ongoing and may continue for some time into the future. The undersigned finds that the Government has had a legitimate prosecutorial purpose for sealing the indictment since the indictment was returned by the Grand Jury and that this legitimate prosecutorial purpose may continue for some time into the future. However, the undersigned also finds that a date should be set for arraignment and unsealing of the indictment.

Accordingly, this matter is hereby set for arraignment of Defendants on October 23, 2014, at 3:00 p.m. before the undersigned. If the Government's legitimate prosecutorial purpose continues on or after October 23, 2014, the Government may request that this Court continue the arraignment and unsealing of the indictment.

SO ORDERED this the 7th day of October, 2014.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE